

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI,
WESTERN DIVISION

ALONZO DAVIS

PLAINTIFF

VERSUS

CIVIL ACTION NO. 5:06cv113-DCB-JMR

MICHAEL J. ASTRUE, Commissioner
of Social Security

DEFENDANT

ORDER

This cause comes before the Court on the Report and Recommendation [**docket entry no. 14**] of Chief United States Magistrate Judge John M. Roper that the plaintiff's Motion for Judgment on the Pleadings [**docket entry no. 8**] be denied and the defendant's Motion for an Order Affirming the Decision of the Commissioner [**docket entry no. 10**] be granted, and the plaintiff's Objection [**docket entry no. 17**] to the Report and Recommendation. Having considered the Report and Recommendation, having conducted a de novo review of those portions of the Report and Recommendation to which the plaintiff has objected in light of applicable statutory and case law, having reviewed the relevant portions of the administrative record, and being otherwise fully advised in the premises, the Court finds and orders as follows:

On December 14, 2000, Alonzo Davis, plaintiff herein, filed applications for Social Security disability insurance and Supplemental Security Income disability benefits with the Social Security Administration. After his applications were denied initially and upon reconsideration, the plaintiff requested a

hearing. On August 13, 2002, the plaintiff appeared at a hearing before an Administrative Law Judge ("ALJ"). On August 19, 2002, the ALJ denied the plaintiff's applications upon concluding that the plaintiff was not disabled. On January 23, 2003, the Appeals Council vacated the ALJ's decision and remanded the matter for further consideration. On October 13, 2004, the ALJ conducted a second hearing. Once again, on November 20, 2004, the ALJ rejected the plaintiff's applications having found that the plaintiff was not disabled. On June 16, 2006, the ALJ's determination became the final decision of Michael J. Astrue, Commissioner of Social Security, defendant herein, when the Appeals Council refused to review the second decision of the ALJ. On August 14, 2006, the plaintiff brought a complaint in this Court seeking review of the defendant's final decision pursuant to 42 U.S.C. § 405(g) (2006).

On April 16, 2007, the plaintiff filed a Motion for Judgment on the Pleadings [docket entry no. 8], and on June 15, 2007, the defendant filed a Motion for an Order Affirming the Decision of the Commissioner [docket entry no. 10]. On January 25, 2008, Chief United States Magistrate Judge John M. Roper issued a Report and Recommendation [docket entry no. 14] that the plaintiff's Motion be denied and the defendant's Motion be granted. On February 23, 2008, the plaintiff filed his Objection [docket entry no. 17] to the Report and Recommendation.

In his Objection, the plaintiff raises three primary points of

error: 1) the ALJ erred by not finding several of the plaintiff's impairments to be severe and by failing to consider the cumulative effects of all of the plaintiff's impairments in reaching his decision that the plaintiff was not disabled; 2) the ALJ's assessment of the plaintiff's residual functional capacity is inconsistent, is not supported by substantial evidence, and fails to comport with the Appeals Council's Order of Remand; and 3) the ALJ did not comply with the Appeals Council's instruction to identify and resolve any conflicts between the Vocational Expert's occupational testimony and the information found in the Dictionary of Occupational Titles and the Selected Characteristics of Occupations before relying upon the Vocational Expert's evidence.

After a de novo review of the portions of the Report and Recommendation to which the plaintiff has objected, the Court is unable to find any merit to the points of error he urges. The Court is satisfied that the defendant's final decision is supported by substantial evidence. Accordingly,

IT IS HEREBY ORDERED that the Report and Recommendation [docket entry no. 14] is **ADOPTED**.

IT IS FURTHER ORDERED that the plaintiff's Objection [docket entry no. 17] to the Report and Recommendation is **OVERRULED**.

IT IS FURTHER ORDERED that the plaintiff's Motion for Judgment on the Pleadings [docket entry no. 8] is **DENIED** and the defendant's Motion for an Order Affirming the Decision of the Commissioner

[docket entry no. 10] is **GRANTED**.

IT IS FURTHER ORDERED that the final decision of the defendant is **AFFIRMED**.

SO ORDERED, this the 12th day of March 2008.

s/ David Bramlette
UNITED STATES DISTRICT JUDGE